

Michelle Smith January 10, 2013

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KAYLEEN SHAKESPEAR,)
)
Plaintiff,)
)
vs.) Case No.
) 2:12-cv-01064-MMD-PAL
WAL-MART STORES, INC.,)
LLC, a Foreign Corporation))
d/b/a WAL-MART STORE)
#2837; and DOE EMPLOYEE;)
DOE SUPERVISOR; DOES I)
through X; and ROE)
CORPORATIONS I through X,)
inclusive,)
)
Defendants.)
_____)

CERTIFIED
COPY

DEPOSITION OF MICHELLE SMITH

Taken on Thursday, January 10, 2013
At 10:22 a.m.

Taken at 715 North Arrowhead Avenue
Suite 212
San Bernardino, California

Reported by: Cecilia R. Pancucci
CSR No. 7572

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1 one.

2 A. Okay.

3 Q. Okay. Do you see that section?

4 A. Yes.

5 Q. And do you see that there's no initial
6 after this?

7 A. Correct.

8 Q. Okay. After this did you do any
9 investigation on your own to determine if there was
10 any surveillance video of the incident or the areas
11 surrounding the incident?

12 A. Actually, in the file, there's a form that
13 you request the video, 'cause I don't have a key
14 for that office. I can't even get in there. It's
15 a secured area that only APMs and store manager
16 have access to, but there's a form that you fill
17 out to request video. I just fill out that form.
18 It tells you the date, the time of the incident,
19 and you do it an hour before, an hour after and you
20 submit the paperwork and --

21 Q. Do you recall, for this incident, whether
22 you filled out that form?

23 A. Yes. I do it for every incident.

24 Q. Have you been told or have you been made
25 aware that that form that you claim that you filled

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1 out hasn't been produced in this case?

2 A. No.

3 Q. Okay. Are you surprised to know that that
4 form that you claim that you filled out hasn't been
5 produced in this case?

6 MS. MILLER: Objection. Speculation.

7 Q. (BY MR. SMITH) You can answer.

8 A. I don't recall. I just give it to them.
9 I don't --

10 Q. Well, let me ask you this: You said that
11 you fill out this form requesting surveillance
12 video; is that correct?

13 A. Correct.

14 Q. And you put the date, the time and the
15 location of where the incident occurred; is that
16 correct?

17 A. Correct.

18 Q. Okay. Who do you give that form to?

19 A. The APM.

20 Q. Okay.

21 A. He has a folder or file and we put it in.

22 Q. And would that be Ian Davidson?

23 A. Correct.

24 Q. And was Ian Davidson the APM on the date
25 of this incident?

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1 A. Yes.

2 Q. Okay. Did you have any subsequent
3 conversations with Mr. Davidson -- let me finish --

4 A. Okay.

5 Q. -- either on the day of the incident or in
6 the ensuing days, where there was any discussion
7 about whether or not there was video surveillance
8 of the incident or the areas surrounding?

9 A. I don't recall.

10 Q. As you sit here today, do you have any
11 knowledge if there ever has been any surveillance
12 video of the incident or the areas surrounding the
13 incident?

14 A. No.

15 MS. MILLER: Objection. Speculation.

16 Q. (BY MR. SMITH) Just asking you if you
17 know.

18 A. No, I don't.

19 Q. Now, you said -- and I believe that you're
20 supposed to request video for one hour before the
21 incident; is that correct?

22 A. Correct.

23 Q. What's your understanding and the reasons
24 why you need to request surveillance video for one
25 hour before the incident?

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1 A. I don't know. That's just something we
2 do.

3 Q. Would you agree that surveillance video
4 one hour before the incident would show any safety
5 sweeps of the area where the subject incident
6 occurred and the surrounding areas?

7 MS. MILLER: Objection. Speculation again.

8 Q. (BY MR. SMITH) Go ahead.

9 A. Yes.

10 Q. Okay. Now, do you know if this is Ian
11 Davidson's handwriting, where he's placing your
12 initials next to this?

13 A. I don't know.

14 Q. Miss Smith, do you have any problems with
15 somebody placing your initials next to a checklist
16 that indicates that things were done?

17 A. No.

18 Q. Is that something that routinely occurred
19 at 2837? Did somebody else, you know, come in and,
20 you know, make your initials, you know, next to a
21 document like this without you knowing?

22 A. No.

23 Q. Okay. So this would be the first time
24 that you're aware of that this is -- something like
25 this occurred, that somebody affixed your initials

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1 daughter were in the scene.

2 Q. After they left the scene, you never went
3 back to take any additional photographs; is that
4 correct?

5 A. Correct.

6 Q. Okay. And you didn't take any -- you
7 didn't take any photographs to document your two
8 walk-throughs with Ms. Salmon and Mr. Steenerson,
9 correct?

10 A. Correct.

11 Q. Okay. Now, you see this next section that
12 states, "Secure video of incident occurring,
13 incident scene prior to incident and incident scene
14 after the incident, if video is available"? Do you
15 see that section?

16 A. Yes.

17 Q. And you said earlier that you did fill out
18 a form that requested the video?

19 A. Correct.

20 Q. But you have no idea what happened from
21 that point forward with respect to the form; is
22 that correct?

23 A. Correct.

24 Q. Excuse me. Have you been told earlier
25 that when Wal-Mart did their initial disclosure in